

July 5, 2018

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Longview Ridge
Forest Conservation Variance
Tracking # 03-18-2695

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was originally received by this Department on April 5, 2018. That request proposed to remove or critically impact 32 of 52 specimen trees on and adjacent to the site in order to develop 173 townhouses on 40.5 acres. This Department sent a letter on May 8, 2018 denying the variance based largely on the lack of alternate site layouts that would better protect the large concentration of specimen trees near proposed lots 92-102. All of the specimen trees to be removed are in forest.

On June 8, 2018, an evaluation of two additional layouts for the area of lots 92-102, including concept plans, was submitted for consideration. That evaluation concluded the originally proposed layout was the only feasible option and offered little alternate designs for that area. However, evaluation by staff revealed that eight viable (i.e. fair condition or better) specimen trees with critical root zone onsite in this vicinity would be saved under Alternative 1, not four, and that the critical root zones of three of the seven trees shown to be saved are actually in the proposed limit of disturbance.

Therefore, this Department will consider the variance request to remove 24 of the 52 specimen trees as proposed in "Alternative 1". Seven of those 24 specimens are in poor condition. "Alternative 2" would only protect two additional specimen trees and would involve much more grading and forest clearing. Therefore, EPS agrees with the petitioner that this alternative should be rejected.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance

is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to develop a 40.5 acre parcel. The petitioner claims that this entire parcel is available to be developed regardless of impacts to priority forest or specimen trees because a 1992 agreement between the petitioner and surrounding community associations was made prior to existence of the Forest Conservation Law. That agreement resulted in the current 40.5-acre land parcel being subdivided from approximately 230 acres of “environmental sensitive area” in order to be developed to the maximum extent. However, Baltimore County was not a party to that agreement, the main purpose of which was to gain community support for major up-zoning of the property at that time. The proposed development is still subject to all current environmental laws. Moreover, approximately 58 acres of the original Grand Lodge of Ancient Free and Accepted Masons of Maryland Property has already been developed with various commercial and high density residential uses. Therefore, denying this variance would not result in deprivation of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner’s plight is primarily associated with the proposed layout and housing density. The general condition of the neighborhood is both priority forest with specimen trees and high density development. Nevertheless, the petitioner’s plight is due to developing on the heavily constrained land which is a general condition of the neighborhood. Therefore, we find the second criterion has not been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. While granting the variance would result in development of a 173-townhouse subdivision in an existing forest corridor, the adjacent developed neighborhood is developed as a mix of high density residential and commercial uses. Given that the revised development envelope minimizes fragmentation of the remaining forest, granting this variance will not alter the essential character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The proposed layout will provide required storm water management and not directly impact any Forest Buffer Easement. Therefore, we find that granting this revised variance request will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. Subsequent to the original variance request, the petitioner has provided alternate site designs demonstrating that additional specimen trees cannot be saved due to topography and SWM requirements. Therefore, the variance request does not arise from a circumstance created by the petitioner, and this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33

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of the Baltimore County Code. Allowing the removal or critical impact to 17 viable specimen trees can now be considered consistent with the spirit and intent of the Forest Conservation Law given that attempts to redesign to protect more specimen trees apparently cannot be accomplished and the fact that no impacts to the Forest Buffer Easement are proposed. Therefore, this criterion has been met.

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. The limit of forest clearing for the development shall comply with the terms of this variance.
2. No further specimen tree impacts shall be incurred in the development of this site.
3. The Forest Conservation Easement and/or Forest Buffer Easement and the associated Declarations of Protective Covenants shall be recorded in Land Records prior to reduction of any EPS-held security.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of the variance approval sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/ges

- c. Michael Coughlin, Morris Ritchie Associates, Inc.
Marian Honeczy, Maryland Department of Natural Resources

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I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name

Developer's Signature

Date

Printed Name